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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,939	01/26/2001	Brian Edward Calvert	PF01763NA	5499
20280	7590	11/03/2004	EXAMINER	
MOTOROLA INC 600 NORTH US HIGHWAY 45 ROOM AS437 LIBERTYVILLE, IL 60048-5343			QUINONES, ISMAEL C	
			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

ep

Advisory Action

Application No.

09/769,939

Applicant(s)

CALVERT ET AL.

Examiner

Ismael Quiñones

Art Unit

2686

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.


Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's Arguments concerning that Mohi et al. (U.S. P.G.-Pub. 2003/0195008) is not entitled or cannot benefit from Mohi (U.S. Application No. 09/899,612) provisional filing date, were considered, but are not persuasive. The Examiner respectfully disagrees, because the subject matter relied upon Mohi et al. (U.S. P.G.-Pub. 2003/0195008) is relevant and analogous to Mohi (U.S. Application No. 09/899,612), therefore the Examiner withholds that since Mohi (U.S. Application No. 09/899,612) claims priority to the provisional application No. 60/218,454 filed on July 14, 2000, it is determined that Mohi et al. (U.S. P.G.-Pub. 2003/0195008) has privilege to the earlier provisional date. Furthermore the Examiner clarifies to the Applicant that no agreement or acknowledgement was reached regarding that Mohi et al. (U.S. P.G.-Pub. 2003/0195008) is not entitled to the provisional application filing date of July 14, 2000, instead the Examiner recognizes instructing the Applicant to point out where elements in Mohi et al. (U.S. P.G.-Pub. 2003/0195008) differ or are absent from Mohi (U.S. Application No. 09/899,612) if Applicant believes so.


RAFAEL PEREZ-GUTIERREZ
PATENT EXAMINER
10/20/04